



General Assembly

January Session, 2001

Amendment

LCO No. 5622

Offered by:

REP. EBERLE, 15th Dist.

To: House Bill No. 6573

File No. 352

Cal. No. 263

***"AN ACT CONCERNING THE RIGHTS OF PERSONS UNDER
SUPERVISION OF THE COMMISSIONER OF MENTAL
RETARDATION."***

1 In line 1, before "Section" insert "Section 1."

2 After line 143, insert the following:

3 "Sec. 2. Section 45a-677 of the general statutes is repealed and the
4 following is substituted in lieu thereof:

5 (a) The court may assign to a limited guardian of [the] a mentally
6 retarded person any portion of the duties and powers listed in
7 subsection (d) of this section for those particular areas in which the
8 respondent lacks the capacity to meet the essential requirements for
9 [his] such respondent's physical or mental health or safety.

10 (b) A limited guardian may also be assigned the duty to assist the
11 respondent in those particular areas in which the capacity of [such
12 person] the respondent to meet the essential requirements of [his] such
13 respondent's physical or mental health or safety, protect [his] such

14 respondent's rights, obtain necessary services, or to fulfill [his] such
15 respondent's civil duties is impaired, as well as in other ways not
16 specifically prohibited by sections 45a-668 to 45a-684, inclusive.

17 (c) A limited guardian of [the] a mentally retarded person shall have
18 only such of the duties and responsibilities and powers of a guardian
19 of [the] a mentally retarded person under subsection (d) of this section
20 as the court shall specify based upon its findings with regard to the
21 individual need of the respondent for supervision. The guardian shall
22 have the duty to report to the probate court which appointed such
23 limited guardian at least annually the condition of the respondent. The
24 preceding duties, responsibilities and powers shall be carried out
25 within the limitations of the resources available to the ward, either
26 through [his] the ward's own estate or by reason of private or public
27 assistance.

28 (d) The court may assign to a limited guardian the custody of the
29 ward for the purpose of exercising any, but not all, of the following
30 limited duties and powers, in order to assist the ward in achieving
31 self-reliance: (1) To assure and consent to a place of abode outside the
32 natural family home, (2) to consent to specifically designed
33 educational, vocational or behavioral programs, (3) to consent to the
34 release of clinical records and photographs, (4) to assure and consent
35 to routine, elective and emergency medical and dental care, and (5)
36 other specific limited powers to assure and consent to services
37 necessary to develop or regain to the maximum extent possible the
38 ward's capacity to meet essential requirements. All plenary guardians
39 and limited guardians appointed pursuant to sections 45a-668 to
40 45a-684, inclusive, shall also have a duty to assure the care and comfort
41 of the ward within the limitations of their appointment, and within the
42 limitations of the resources available to the ward either through [his]
43 the ward's own estate or by reason of private or public assistance.

44 (e) A plenary guardian or limited guardian of [the] a mentally
45 retarded person shall not have the power or authority: (1) To cause the
46 ward to be admitted to any institution for treatment of the mentally ill,

47 except in accordance with the provisions of sections 17a-75 to 17a-83,
48 inclusive, 17a-456 to 17a-484, inclusive, 17a-495 to 17a-528, inclusive,
49 17a-540 to 17a-550, inclusive, 17a-560 to 17a-576, inclusive, 17a-615 to
50 17a-618, inclusive, and 17a-621 to 17a-664, inclusive, and chapter 420b;
51 (2) to cause the ward to be admitted to any training school or other
52 facility provided for the care and training of the mentally retarded if
53 there is a conflict concerning such admission between the guardian
54 and the mentally retarded person or next of kin, except in accordance
55 with the provisions of sections 17a-274 and 17a-275; (3) to consent on
56 behalf of the ward to a sterilization, except in accordance with the
57 provisions of sections 45a-690 to 45a-700, inclusive; (4) to consent on
58 behalf of the ward to psychosurgery, except in accordance with the
59 provisions of section 17a-543; (5) to consent on behalf of the ward to
60 the termination of [that person's] the ward's parental rights, except in
61 accordance with the provisions of sections 45a-706 to 45a-709,
62 inclusive, 45a-715 to 45a-718, inclusive, 45a-724 to 45a-737, inclusive,
63 and 45a-743 to 45a-757, inclusive; (6) to consent on behalf of the ward
64 to the performance of any experimental biomedical or behavioral
65 medical procedure or participation in any biomedical or behavioral
66 experiment, unless it is intended to preserve the life or prevent serious
67 impairment of the physical health of the ward or it is intended to assist
68 the ward to regain [his] the ward's abilities and has been approved for
69 [that person] the ward by the court; (7) to admit the ward to any
70 residential facility operated by an organization by whom such
71 guardian is employed, except in accordance with the provisions of
72 section 17a-274; (8) to prohibit the marriage or divorce of the ward;
73 and (9) to consent on behalf of the ward to an abortion or removal of a
74 body organ, except in accordance with applicable statutory procedures
75 when necessary to preserve the life or prevent serious impairment of
76 the physical or mental health of the [respondent] ward.

77 (f) A plenary guardian or limited guardian shall submit a report to
78 the court: (1) Annually; (2) when the court orders additional reports to
79 be filed; or (3) when there is a significant change in the capacity of the
80 ward to meet the essential requirements for [his] the ward's physical

81 health or safety; (4) when the plenary guardian or limited guardian
82 resigns or is removed; and (5) when the guardianship is terminated.

83 (g) Such reports shall be submitted on a form provided by the Office
84 of the Probate Court Administrator and shall contain the following
85 information: (1) Significant changes in the capacity of the ward to meet
86 the essential requirements for [his] the ward's physical health or safety;
87 (2) the services being provided to the ward and the relationship of
88 those services to the individual guardianship plan; (3) the significant
89 actions taken by the limited guardian of [the] a mentally retarded
90 person or plenary guardian of [the] a mentally retarded person during
91 the reporting period; (4) any significant problems relating to the
92 guardianship which have arisen during the reporting period; and (5)
93 whether such guardianship, in the opinion of the guardian, should
94 continue, be modified, or be terminated, and the reasons therefor.

95 (h) When any mentally retarded person for whom a guardian has
96 been appointed becomes a resident of any town in the state in a
97 probate district other than the one in which a guardian was appointed,
98 or becomes a resident of any town in the state to which the
99 guardianship file has been transferred under this section, such court in
100 that district may, upon motion of any person deemed by the court to
101 have sufficient interest in the welfare of the respondent, including, but
102 not limited to, the guardian, the Commissioner of Mental Retardation
103 or [his] the commissioner's designee, or a relative of the person under
104 guardianship, transfer the file to the probate district in which the
105 person under guardianship resides at the time of the application,
106 provided the transfer is in the best interest of the mentally retarded
107 person. A transfer of the file shall be accomplished by the probate
108 court in which the guardianship matter is on file by making copies of
109 all documents in the court and certifying each of them and then
110 causing them to be delivered to the court for the district in which the
111 person under guardianship resides. When the transfer is made, the
112 court of probate in which the person under guardianship resides at the
113 time of transfer shall thereupon assume jurisdiction over the
114 guardianship and all further accounts shall be filed with such court.

115 (i) A plenary guardian or limited guardian of a mentally retarded
116 person and, to the extent possible, such person and such person's
117 family, are the primary decision makers with respect to programs
118 needed by such person and the policies and practices affecting the
119 well-being of such person. The duties and powers of a plenary
120 guardian or limited guardian under this section may not be
121 diminished or otherwise encumbered by any regulation, rule or
122 ordinance of any state agency or municipality. The provisions of this
123 subsection shall be included in any court order appointing a plenary
124 guardian or limited guardian of a mentally retarded person."